

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

STEVEN B. KILGORE,

Complainant,

vs.

CITY OF HENDERSON, HENDERSON
POLICE DEPARTMENT, and HENDERSON
POLICE OFFICER'S ASSOCIATION,

Respondents.

ITEM NO. 550D

CASE NO. A1-045763

ORDER

For Complainant:

Richard I. Dreitzer, Esq.
Law Offices of Richard I. Dreitzer, Chtd.

For Respondent City:

William E. Cooper, Esq.

For Respondent Association:

Thomas D. Beatty, Esq.

On October 14, 2003, Henderson Police Officer's Association (hereafter "HPOA") filed a Motion for Separate Hearing. Petitioner Steven B. Kilgore (hereafter "Kilgore") filed his opposition on October 24, 2003; and the HPOA replied on November 5, 2003.

On September 8, 2003, HPOA filed a Motion to Dismiss or Strike Amended Complaint. Kilgore opposed the motion belatedly on October 24, 2003, and simultaneously requested leave to file the late opposition. HPOA filed its "Response" on October 29, 2003, without elaborating further on its Motion to Dismiss.

The Board deliberated on this matter on November 14, 2003, noticed in accordance with Nevada's Open Meeting Law; and based upon such deliberations,

IT IS HEREBY ORDERED that although it is a close question for the Board, the Motion for Separate Hearing is denied.

IT IS FURTHER ORDERED that HPOA's Motion to Dismiss is denied. HPOA cites to the Nevada Rules of Civil Procedures in his Motion to Dismiss. However, NRCP 15 allows an

1 amendment to a "pleading once as a matter of course at any time before a responsive pleading is
2 served." The previously filed motions to dismiss and/or strike were not "pleadings" as defined in
3 NRCP 7. Based upon those rules and NAC 288.235, Kilgore's amended complaint was filed "as
4 a matter of course" prior a responsive pleading being filed. Furthermore, NAC 288.235 provides
5 the Board with authority to allow a "pleading" to "be amended or corrected." In the present
6 matter, Kilgore "amended" his complaint and added HPOA as a party.

7 This matter is currently scheduled for hearing on December 9 & 10, 2003.

8 DATED this 14th day of November, 2003.

9 LOCAL GOVERNMENT EMPLOYEE-
10 MANAGEMENT RELATIONS BOARD

11 BY: 
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JANET TROST, ESQ., Chairman

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14 BY: 
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16 JOHN E. DICKS, ESQ., Board Member
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